



Department of Veterans Affairs

Financial Policy

Volume II

Appropriations, Funds, and Related Information

Chapter 10A

Supply Fund

Approved:

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1001 Overview

This chapter establishes the Department of Veterans Affairs' (VA) financial policies for VA's supply fund which supports VA's mission and other Federal agencies through the operation and maintenance of a supply system. VA's supply fund is used for the procurement of supplies, equipment, personal services and the repair and reclamation of used, spent or excess personal property. The primary customers of the supply fund are VA, Department of Defense (DOD) and the Department of Health and Human Services (HHS).

The statutory authority for the supply fund is contained in [38 U.S.C. 8121 – Revolving Supply Fund](#).

Key points covered in this chapter:

- VA's supply fund was created by law, supply fund costs of furnished services, equipment, and supplies must be reimbursed by customers from appropriated resources;
- VA's supply fund will provide services on a reimbursable basis;
- Revenues will be recognized when earned, and expenses will be recognized when incurred; and
- The rates for the cost of services, equipment and supplies furnished are determined by the Secretary based on estimated or actual direct cost.

1002 Revisions

Section	Revision	Office	Reason for Change	Effective Date
100501	Added language clarifying funds expiration and "parking" funds	OFP (047G)	To clarify what funds are without fiscal limitations	July 2021
100503	New section discussing bona fide need	OFP (047G)	Due to ensure the field is following the bona fide need rule	July 2021
App C	New appendix incorporating OGC white paper on bona fide need and revolving funds.	OFP (047G)	Incorporate OGC white paper on bona fide need	July 2021

Section	Revision	Office	Reason for Change	Effective Date
Various	Updated to new policy format and completed a five-year review	OFP (047G)	Prior version did not accurately reflect current practice	September 2020
Various	Chapter number changed to align with new Revolving Fund chapter hierarchy	OFP (047G)	Changed to align with new Revolving Fund chapter hierarchy	September 2020
0203	Updated definitions.	OFP (047G)	Outdated	September 2020
0204	Updated Roles and Responsibilities to reflect current practice.	OFP (047G)	Outdated	September 2020
0205	Updated all subsections to reflect current practices and the new organization restructure.	OFP (047G)	Outdated	September 2020

1003 Definitions

Revenues - Inflow of resources that have been earned.

Fund Budget - Includes all anticipated revenues and expenses for Enterprise Centers (ECs) within the fund.

Revolving Fund - A fund established by Congress to finance a cycle of business-like operations through fees charged for goods or services provided.

1004 Roles and Responsibilities

Secretary of the Department of Veterans Affairs approves all additions and deletions of Enterprise Centers to the fund.

Revolving Fund Board of Directors (RFBOD) approves activities to be included in the funds, reviews and approves budgets, identifies, and approves actions to resolve problems in a fund's operations, and reviews studies of costs and service quality.

Principal Deputy Assistant Secretary for Management and the **Deputy Executive Director, Office of Acquisition, Logistics and Construction** are co-chairs of the RFBOD, and oversee all financial management activities relating to the fund's programs and operations.

Under Secretaries, Assistant Secretaries, CFOs, Fiscal Officers, Chief Accountants, and Other Key Officials are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

1005 Policies

100501 General Policies

- A. VA's supply fund was created to operate and maintain a VA supply system for the procurement of supplies, equipment, and personnel services.
- B. VA's supply fund's principal business lines are the Denver Logistics Center; Hines Service and Distribution Center; National Acquisition Center (NAC); Strategic Acquisition Center (SAC); Technology Acquisition Center (TAC); VA Acquisition Academy (VAAA); Office of Acquisition Logistics (OAL); Office of Procurement Acquisitions and Logistics (OPAL); Revolving Fund Fiscal Office Publications Service; and the Service and Reclamation Division.
- C. VA utilizes the Acquisition Centers for a variety of services. For more information on the various Acquisition Centers refer to Appendix B.
- D. Obligations and payments to the supply fund consist of two parts, a service fee and the cost of the goods or services being procured.
- E. The portion of a payment the supply fund collects as a service fee for the sale of products or services may be retained for future use and is not subject to fiscal year limitations.
- F. The portion of a payment the supply fund collects related to the cost of the goods or services being procured is subject to fiscal law requirements relative to current, expired, or canceled/closed appropriations. Obligations must be cancelled and funds returned to the buyer/Treasury if procurement actions are not completed prior to the cancelation/closing of the related appropriation.
- G. When a customer, using current FY funds, incurs an obligation with the Supply Fund, the amount obligated remains available for payment once the work has been

completed just as it does with a private vendor. These funds do not lose their FY identity. Accordingly, if the Supply Fund does not perform the work ordered under the agreement, it must deobligate the funds and return them to the customer. Likewise, if the customer orders are completed in a subsequent FY, and the total amount that the customer had obligated is in excess of what is needed to pay for the scope of work ordered, the excess amount must be deobligated and returned to the customer. Funds returned to a customer are subject to the normal restrictions for the use of appropriated funds including those restrictions related to expired or cancelled funds.

- H. Supply fund authority allows VA to sell goods and services to VA, HHS, and DOD organizations. The supply fund will operate under the authority of the Economy Act for all other buy/sell transactions. Agreements entered into using the Economy Act do not follow the supply fund authority as outlined in paragraph C above. Agreements using the Economy Act must be deobligated at the end of the fiscal year to the extent that the performing agency has not performed or incurred valid obligations. These agreements are used for one agency to obtain supplies or services from another agency. Authority for Economy Act agreements can be found at 31 U.S.C. 1535. For additional information on the Economy Act, refer to VA Policy Volume I, Chapter 11, Intragovernmental Reimbursable Agreements.
- I. Customers must have a current year bona fide need in order to obligate funds with the Supply Fund. If a customer has a bona fide need related to a subsequent funding period, then the customer must use the subsequent period's funds when available to create the obligation. Appendix C: OGC White Paper, "Bona Fide Need and Revolving Funds" provides more information on selecting the appropriate period's funds.
- J. VA Supply Fund is not a vehicle to "park" expiring funds to extend their availability. It is not legally permissible for VA customers to use the Supply Fund to "park" or "bank" expiring funds because a customer lacks sufficient time to appropriately obligate funds before the period of availability expires. According to GAO "parking" usually occurs when an agency transfers fixed-year funds to a revolving or franchise fund in the mistaken belief that, by doing so, the funds lose their fixed-year character and remain available indefinitely. For more information see GAO/B-288142, September 6, 2001.
- K. VA's supply fund will be reimbursed from appropriations for the cost of all services, equipment and supplies furnished at rates determined by the Secretary on the basis of estimated or actual direct cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved) and indirect cost. See 38 U.S.C. § 8121.

- L. VA will process all supply fund transactions involving cash collections and disbursements under an approved Treasury Account Symbol (TAS) (e.g. 36X4537).
- M. At the end of each fiscal year, VA's Secretary will determine, if any, the amount of excess cash in the supply fund. Excess cash is defined as monies not needed to maintain an adequate inventory level and effective financial management of the supply fund. Excess cash will be transferred to the Department of the Treasury as miscellaneous receipts.

100502 Supply Fund Uses

- A. VA will use supply fund collections to pay for:
 - Expenses incurred by the Office of Acquisition and Logistics (OAL) and the Office of Procurement Acquisition and Logistics (OPAL);
 - Expenses incurred by the Office of Small and Disadvantaged Business Utilization;
 - Repair, inspection and testing costs of supply fund property; and
 - Incidental charges for transporting and storing supply fund property.
- B. VA will not use supply fund collections to pay for Expenses associated with building a new structure or refurbishing an existing structure. Such expenses must be paid by the appropriate construction appropriation account.
- C. The Office of General Counsel has opined that the Supply Fund may enter into agreement for turnkey assisted acquisitions to procure equipment and installation of that equipment through the supply fund. For more information how to use the supply fund for "turnkey" equipment purchases see VAOPGCADV 1-2021.

100503 Supply Fund Accounting

- A. The supply fund uses the modified accrual method of accounting. Modified accrual accounting is a combination of accrual and cash basis accounting. Supply fund accounting transactions will be recorded under accrual accounting with operating expenses recognized currently, while those expenses for capital and other long-term assets are capitalized and not recognized as expenses until used.
- B. Supply fund staff will reconcile proprietary and budgetary information monthly in accordance with all applicable rules and regulations.
- C. The supply fund's control and subsidiary accounts will be reconciled monthly by supply fund staff to assure the validity of account balances. To the extent possible,

inaccuracies or discrepancies disclosed should be located and adjusted prior to preparation and submission of financial reports.

- D. The supply fund will prepare an annual business-type budget for operations under the fund.
- E. VA will use the supply fund budget authority to incur obligations and will recognize revenue from its customers on a “fee-for-service” basis.
- F. Services provided by the supply fund will be on a reimbursable basis.
- G. The VA supply fund will use reimbursable authority established from its interagency agreements with customers to procure the goods and services to be furnished. Receipts resulting from the operation of the fund, including property returned to the supply system when no longer required by activities to which it had been furnished, the proceeds from disposal of scrap, excess or surplus personal property of the fund and receipts from carriers and others for loss of or damage to personal property may also be used to procure goods and services.
- H. Any item issued from the supply system inventory will be treated as a sale. Sales will be reimbursed from the operating appropriations. Appropriation obligations will be established just prior to delivery. VA’s supply fund will rely on Just-In-Time (JIT) deliveries from most suppliers to keep inventory levels low.
- I. The supply fund’s accounting system must conform to the accounting principles, standards and general requirements prescribed for VA as a whole; and must provide for the integration of the supply funds accounts with those of VA.

100504 Supply Fund Reporting

- A. The VA supply fund will adhere to all VA reporting requirements.
- B. The supply fund has its own consolidated financial statements independent of VA’s consolidated financial statements. The supply fund consolidated financial statements will be prepared in accordance with Federal Accounting Standards Advisory Board (FASAB) standards and related concepts, which constitute Federal generally accepted accounting principles.
- C. The VA supply fund will provide information for inclusion in VA’s quarterly and year-end consolidated financial as well as other submissions to the Treasury such as, Governmentwide Treasury Account Symbol Adjusted Trial Balance System (GTAS) and Treasury Report on Receivables (TROR).

- D. VA's supply fund will utilize United States Standard General Ledger (USSGL) accounts, to identify supply fund specific activities that are reported both separately by the fund and as part of VA's consolidated quarterly and annual financial reporting cycles.

1006 Authorities and References

31 U.S.C. 3512, Executive Agency Accounting and Other Financial Management Reports and Plans

31 U.S.C. 3515, Financial Statements of Agencies

38 Comp. Gen. 628 (1959), Contracts With Other Government Agencies

38 U.S.C. 8121, Revolving Supply Fund

Statement of Federal Financial Accounting Standards (SFFAS) No. 7:
Accounting for Revenue and Other Financing Sources and Concepts for Reconciling
Budgetary and Financial Accounting

Office of Management and Budget (OMB) Circular A-11, Preparation, Submission and
Execution of the Budget

OMB Circular A-123, Management's Responsibility for Internal Control

OMB Circular A-123, Appendix A, Internal Control over Financial Reporting

OMB Circular A-123 Appendix D, Compliance with FFMIA

OMB Circular A-130, Management of Federal Information Resources

OMB Circular A-136, Financial Reporting Requirements - Revised

Treasury Federal Account Symbols and Titles (FAST) Book

Treasury Financial Manual (TFM) Volume 1, Part 2, Chapter 1500, Description of
Accounts Relating to Financial Operations

National Acquisition Center (NAC)

Service and Distribution Center (SDC), Hines, IL

VAOPGCADV 1-2021

1007 Rescissions

020701 This chapter rescinds VA financial policies and procedures, Volume II, Chapter 2A, Supply Fund, dated August 2014.

1008 Questions

Questions concerning these financial policies and procedures should be directed as shown below:

VHA	VHA CFO Accounting Policy (10A3A) (Outlook)
VBA	VAVBAWAS/CO/FINREP (Outlook)
All Others	OFP Accounting Policy (Outlook)

Appendix A: Prior Revisions Table

Section	Revision	Office	Reason for Change	Effective Date
Header	Deleted: August 2009 Added: April 2014	APS (047GA)		August 2014
0201 Overview	Added: "s" to opening sentence so "include" now says "includes" Deleted link for: "38 U.S.C. 8121" Updated link to: "38 U.S.C. 8121 – Revolving Supply Fund"	APS (047GA)		August 2014
020202	Editorial, updates and deletions provided by OAL.	OAL		August 2014
020204B	Added: ", and logistics reviews conducted by Management Quality Assurance Service (MQAS)" so 020204B says: "All expenses incurred by the Office of Small and Disadvantaged Business Utilization and certain elements of VHA's Procurement and Logistics Office, and logistics reviews conducted by Management Quality Assurance Service (MQAS)."	OBO		August 2014
0203 Authority and References	Corrected alphabetization and renumbered authority and reference links. Removed reference to Volume V, Chapter 4B.	APS (047GA)		August 2014
020301	Renumbered link (formerly 020312): "38 Comp. Gen. 628 (1959), Contracts With Other Government Agencies".	APS (047GA)		August 2014

Section	Revision	Office	Reason for Change	Effective Date
020302	Deleted link for: "31 U.S.C. 3512, Executive Agency Accounting and Other Financial Management Reports and Plans" Updated link for: "31 U.S.C. 3512, Executive Agency Accounting and Other Financial Management Reports and Plans" Renumbered link: Was 020301.	APS (047GA)		August 2014
020303	Deleted link for: "31 U.S.C. 3515, Financial Statements of Agencies" Updated link for: "31 U.S.C. 3515, Financial Statements of Agencies" Renumbered link: Was 020302.	APS (047GA)		August 2014
020304	Deleted link for: "38 U.S.C. 8121, Revolving Supply Fund" Updated link for: "38 U.S.C. 8121, Revolving Supply Fund" Renumbered link: Was 020303.	APS (047GA)		August 2014
020307	Added link for: "Implementation Guide for OMB Circular A-123, Management's Responsibility for Internal Control, Appendix A, Internal Control over Financial Reporting, dated July 22, 2005"	APS (047GA)		August 2014
020308	Renumbered Link (formerly 020304): "Office of Management and Budget (OMB) Circular A-11, Preparation, Submission and Execution of the Budget"	APS (047GA)		August 2014

Section	Revision	Office	Reason for Change	Effective Date
020309	Deleted link for: "OMB Circular A-123, Management's Responsibility for Internal Control" Updated link for: "OMB Circular A-123, Management's Responsibility for Internal Control" Renumbered link: Was 020305.	APS (047GA)		August 2014
0203010	Deleted link for: "OMB Circular A-127, Financial Management Systems" Updated link for: "OMB Circular A-127, Financial Management Systems"	APS (047GA)		August 2014
020311	Deleted link for: "OMB Circular A-130, Management of Federal Information Resources" Updated link for: "OMB Circular A-130, Management of Federal Information Resources" Renumbered link: Was 020307.	APS (047GA)		August 2014
020312	Deleted link for: "OMB Circular A-136, Financial Reporting Requirements - Revised" Updated link for: "Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements - Revised" Renumbered link: Was 020308.	APS (047GA)		August 2014
020314	Added link: "Radiology Quality Assurance Services"	OAL		August 2014

Section	Revision	Office	Reason for Change	Effective Date
020315	Added link: "Service and Distribution Center (SDC), Hines, IL"	OAL		August 2014
020317	Added link: "Strategic Acquisition Center (SAC), Frederick, Maryland"	OAL		August 2014
020318	Added link: "Strategic Acquisition Center (SAC), Fredericksburg, Virginia"	OAL		August 2014
020319	Added link: "Technology Acquisition Center (TAC), Austin, Texas"	OAL		August 2014
020320	Added link: "Technology Acquisition Center (TAC), Eatontown, New Jersey"	OAL		August 2014
020321	Renumbered link: "Treasury Federal Account Symbols and Titles (FAST) Book" Formerly 020310.	OAL		August 2014
020322	Deleted link for: "Treasury Financial Manual (TFM) Part 2--Chapter 1500, Description of Accounts relating to Financial Operations" Updated link for: "Treasury Financial Manual (TFM) Volume 1, Part 2, Chapter 1500, Description of Accounts Relating to Financial Operations" Renumbered link: Was 020309.	APS (047GA)		August 2014
020324	VA's General Counsel Decision VAOPGCADV 26-97, issued September 24, 1997	APS (047GA)		August 2014

Section	Revision	Office	Reason for Change	Effective Date
020401	Deleted: “The Assistant Secretary for Management/Chief Financial Officer (CFO), as required by the Chief Financial Officers Act of 1990 and 38 U.S.C. 309, oversees all financial management activities relating to the Department’s programs and operations.” Added: “The Assistant Secretary for Management/Chief Financial Officer (CFO) oversees all financial management activities relating to the Department’s programs and operations, as required by the Chief Financial Officers Act of 1990 and 38 U.S.C. 309.”	APS (047GA)		August 2014
020401	Added: "and oversight", so 020401 says: "The CFO establishes financial policy, systems and operating procedures for all VA financial entities and provides guidance and oversight on all aspects of financial management."	OBO		August 2014
020505	Editorial, updates and deletions provided by OAL.	OAL		August 2014
020701	Deleted: “This chapter rescinds MP-4, Part 5, Chapter 7, Supply Fund Accounting; VA Directive 4800.20, Section 4(d), Records, Reports and Accounting; and OF Bulletin 05GA1.01, Obligating annual funds to the franchise fund or supply fund.” Added: “020701” and “This chapter rescinds VA financial policies and procedures, Volume II, Chapter 2A, Supply Fund, dated August 2009.”	APS (047GA)		August 2014
020708	Updated Veterans Health Administration e-mail address	APS (047GA)		August 2014

Appendix B: Acquisition Centers

I. [National Acquisition Center \(NAC\)](#),

The NAC is responsible for supporting the health care requirements of the VA and other government agencies. Under the [Federal Supply Schedule](#) and [National Contract Programs](#), the NAC awards high volume multiple award schedule, national contracts, and blanket purchase agreements for the acquisition and direct delivery of pharmaceuticals; medical, surgical, dental, and patient mobility equipment/supplies; high technology medical equipment; temporary allied healthcare staffing services; and just-in-time distribution programs. The NAC has three locations:

- Hines IL, NAC:
- Golden, CO, NAC Commodities and Service Acquisition Service (CSAS), and
- Golden, CO, NAC Denver Logistics Center (DLC).

II. [Technology Acquisition Center \(TAC\)](#)

Headquartered in Eatontown, New Jersey, is a multi-disciplined organization of acquisition professionals and support staff who provide streamlined Business and contracting solutions for a variety of major Information Technology (IT) programs.

III. [Strategic Acquisition Center \(SAC\)](#)

The Strategic Acquisition Center (SAC) located in Frederiksberg, Virginia and Frederick, Maryland, provides dedicated acquisition and program management expertise and support for life cycle management of non-IT enterprise-wide solutions for VA's highly complex requirements and strategically sound contracts.

Appendix C: OGC White Paper “Bona Fide Need and Revolving Funds”

The following is an OGC white paper issued June 2020 by the VA Office of General Counsel, Appropriations/Fiscal Law group.

Q: What is the authority for 1VA+ Program of the Supply Fund?

A: There is a 1997 OGC opinion that OAL cites as the “authority” for the 1VA+ Program, VAOPGCADV 26-97 (September 24, 1997). In that opinion, OGC opined that intra-agency agreements between VA Administrations/Staff Offices and the Supply Fund were authorized under the provisions of the Supply Fund statute, 38 U.S.C. § 8121, rather than the Economy Act. (Note that, since that time, Congress has amended the Supply Fund statute to authorize inter-agency agreements between DoD and the VA Supply Fund as well.) The Supply Fund statute is the underlying legal authority that must be cited in all 1VA+ and Supply Fund agreements.

Here are a couple of important points from the opinion:

- VHA must have a bona fide need for the services or goods to be provided by the Supply Fund at the time VHA enters into the agreement (paragraph 7 of the opinion).
- The agreement should, at a minimum, identify the amount of Medical Care funds to be obligated, identify as specifically as possible the deliverables that are to be produced and the general terms and conditions under which the work is to be performed.

After this opinion was issued, OAL created the 1VA+ Program. The 1VA+ Program is a program under which the customer (ordering office) enters into an agreement with the VA Supply Fund (performing office) for acquisition assistance services for currently-needed goods or services. The customer obligates the funds to the Supply Fund when the 1VA+ Agreement is executed. The FY appropriation current at the time of the order should be charged for the full cost of the order, notwithstanding that the Supply Fund may not complete the acquisition work during that FY. The Supply Fund must perform its obligations under the 1VA+ agreement within a reasonable time after the funds are obligated by the customer.

Just like with a contract with a private vendor, when a customer, using FY funds, incurs an obligation with the Supply Fund, the amount obligated remains available for payment once the work has been completed by the Supply Fund. These funds, however, do not lose their FY identity. Accordingly, if the Supply Fund does not perform the work ordered under the agreement, it must deobligate the funds to the customer and the funds must be returned to the customer’s original FY appropriation. Likewise, if the work the customer orders through the 1VA+ agreement is completed in a subsequent FY, and the total amount that the customer had obligated is in excess of what is needed to pay for the scope of work ordered, the excess amount is deobligated and included

in the customer's expired FY appropriation. That amount is not available to incur new obligations.

Q: What is "parking" and how do we avoid it?

A: Some of the 1VA+ customers do not understand that the 1VA+ Program is not a vehicle with which to "park" expiring funds to extend their availability. It is not legally permissible for VA customers to use 1VA+ to "park" or "bank" expiring funds that the customer lacks sufficient time to spend. This is how GAO describes the prohibition:

"Parking" or "banking" funds are terms used to describe a transfer of funds to a revolving fund through an interagency agreement in an attempt to keep funds available for new work after the period of availability for those funds expires. Parking usually occurs when an agency transfers fixed-year funds to a revolving or franchise fund in the mistaken belief that, by doing so, the funds lose their fixed-year character and remain available indefinitely. However, an agency may not extend the availability of its appropriations by transferring them to another agency. B-288142, Sept. 6, 2001. Use of these expired parked funds violates the *bona fide* needs rule. An interagency agreement must be based upon a legitimate, specific, and adequately documented requirement representing a *bona fide* need of the year in which the order is made. (emphasis added)

GAO has reported on the parking of funds through interagency agreements, and, over a period of several years, Department of Defense (DOD) officials, including the Comptroller, warned against the misuse of interagency agreements to park or bank funds. In addition, the Inspectors General for DOD and the Department of the Interior (Interior) have faulted their agencies for misusing interagency transactions in this fashion. In October 2006, the Treasury issued a bulletin instructing ordering agencies to monitor the activity and age of an interagency order and where there has been no activity for more than 180 days, the ordering agency "shall determine the reasons for the lack of activity on the order." I TFM Bulletin No. 2007-03, Attachment I, ¶ III.B.2 (Oct. 1, 2006).

In a 2007 decision, GAO found that DOD improperly parked funds when it transferred fiscal year appropriations to an Interior franchise fund, GovWorks. B-308944, July 17, 2007. GovWorks was established to provide common administrative services to Interior and other agencies by procuring goods and services from vendors on behalf of federal agencies on a competitive basis. DOD used Military Interdepartmental Purchase Requests (MIPRs) to transfer funds to GovWorks but did not identify the specific items or services that DOD wanted GovWorks to acquire on its behalf until after the funds had expired. GAO concluded that DOD had improperly parked funds with GovWorks by transferring funds from one fiscal year for use by GovWorks for goods and services after the period of availability for those funds had expired. GAO pointed out that, by

doing so, “officials of both agencies acted in disregard of . . . the *bona fide* needs rule.” *Id.* at 13. See also B-318425, Dec. 8, 2009 (the Chemical Safety and Hazard Investigation Board’s appropriation is not available to fund a proposed interagency agreement for identity cards and related maintenance services because the agreement did not specify a period of performance for the agreement, thus creating an open-ended obligation); B-317249, July 1, 2009 (because an order submitted through the General Services Administration’s AutoChoice Summer Program is not finalized until October, the Natural Resources Conservation Service (NRCS) does not incur an obligation until October; NRCS may not obligate the appropriation current when it submits the order).

See Annual Update to the GAO Redbook at p. 5-2 (March 2015).

The customer must have a current bona fide need for supplies, equipment, travel, and training in order to obligate expiring funds to 1VA+. If the obligation is intended to satisfy a bona fide need of a subsequent FY, then the customer must wait until they have new funds to enter into the 1VA+ agreement.

What constitutes a bona fide need of a particular FY, in GAO’s words, “**depends largely on the facts and circumstances of the particular case.**” See GAO Redbook at p. 5-12. GAO Redbook tests bona fide need decisions on “whether an obligation bears a sufficient relationship to the legitimate needs of the time period of availability of the appropriation charged or sought to be charged.” See *id.* Accordingly, the determination of what constitutes a bona fide of the agency for the FY ultimately requires the use of business judgment. There is some legal case precedent, as follows:

- **Supplies Delivered in a Subsequent FY:** The Government may obligate FY funds for supplies only if those supplies are a bona fide need of the current FY. However, it is not unusual for orders placed near the end of the FY to be delivered after the next FY has started. In determining the FY from which payment should be made - in other words, the year for which there was a bona fide need for the supplies - it is appropriate to consider three things: (1) necessary order lead time, (2) extent to which the supplies are consumable, and (3) appropriate stock level. It is appropriate and reasonable to place an order in one FY when supplies will not be delivered until the following fiscal year *if* the items are needed but, due to the long lead time, could not be delivered until the following FY. Similarly, if supplies will be needed in the beginning of the next FY, but the normal lead time for production requires placement in the current FY, the appropriation of the current FY may be charged. Consumables ordered late in the FY in quantities beyond what can be consumed in the remainder of the FY would violate the bona fide needs rule. However, it is reasonable for agencies to purchase supplies necessary to maintain normal, reasonable stock levels. “The *bona fide* needs rule does not prevent maintaining a legitimate inventory at reasonable and historical levels, the ‘need’ being to maintain the inventory level so as to avoid disruption of operations.” See GAO Redbook at p. 5-13. Accordingly, purchases for “stock” may

be considered a bona fide need of the current FY, even if the supplies are not actually used until the following FY.

- **Service Contracts.** As a general rule, services are considered to be a bona fide need of the FY in which the services are rendered. There is a distinction between severable and nonseverable services. Severable services can be separated into components that independently meet a separate need of the Government, e.g., a custodial or landscaping services contract. Severable services are the bona fide needs of the FY in which performed. A nonseverable service produces a single or unified outcome that cannot be subdivided for separate performance in different FYs. If a service is nonseverable, the agency must fund the entire effort with dollars available for obligation at the time the contract is awarded.

Severable Services contract example:

1VA+ cannot be used to extend the life of expiring funds that will be used for a severable services contract. If VHA obligates FY 14 funds to 1VA+ for a severable services contract, then 1VA+ must award the contract in FY 14 and the contract must start running in FY 14 (e.g., no later than 9/30/14 – 9/29/15). If 1VA+ cannot do so, the funds will need to be deobligated and returned to VHA on October 1.

FY 15 funds must be used for a severable services contract that will begin on October 1 or on January 1, 2015 (whether VHA awards the contract itself or via an assisted acquisition by 1VA+).

1VA+ cannot be used to circumvent the rules regarding the use of expiring funds to pay for severable services (see obligation rules in VA policy at <http://www.va.gov/finance/docs/VAFinancialPolicyVolumeIIChapter05.pdf>).

Severable services are the bona fide needs of the FY in which performed. It is only because of a specific legal exception, 41 U.S.C. § 3902, that severable services contracts of up to 12 months in length can begin performance in one FY and end in a second FY.

- **Training:** Training tends to be nonseverable, so when a training obligation is incurred in one FY, the entire cost is chargeable to that year, regardless of the fact that the training may not be completed until the following year. GAO has held that even if a training class does not begin until "early in the next fiscal year," an agency may charge funds current at the time it enters into the training obligation so long as it has a valid need for the training at that time and the delay between the obligation and the start of the training is not excessive.

The bona fide need rule applies when transferring funds between Federal agencies or components of one agency. The customer's funds are obligated when they are transferred from one appropriation to another, which means there must be a bona fide need for the supplies or services during the FY for which the funds are obligated.

- The customer must be "specific" enough about its requirement to clearly establish that there was a bona fide need within the FY of the appropriation. Describing the need with sufficient specificity for the performing agency/agency component to take action is required to establish a bona fide need and thus to create a legitimate obligation.
- The servicing agency need not obligate the transferred funds in the same FY, but must obligate them in *reasonable* amount of time. If the servicing agency "unreasonably" delays obligating the transferred funds, this casts doubt on whether the customer had a bona fide need for the goods or services during the FY in which the customer originally obligated the funds (e.g., the 2007 GovWorks case described above in which GovWorks did not execute a contract to acquire printers – readily available commercial items – for its customer until almost 17 months later and 11 months after the end of the FY in which the customer obligated the funds). Of course, what is "reasonable" in one case will not be "reasonable" in another -- it depends on the unique facts and circumstances.

There is a theme that flows through all of the legal cases – whether there is a bona fide need is a determination that is made based on the facts and circumstances of each particular case. Thus, you could have two customers who want to use 1VA+ to buy furniture for space that will not be renovated until the next FY. Customer A does not have a current bona fide need because the customer needs readily available commercial furniture in the following FY. Customer B has a current bona fide need because the customer needs custom-made specialty furniture that they need to order immediately to ensure that the furniture will be ready with the renovations are complete. 1VA+ should not enter into an agreement with customer A, but could enter into an agreement with customer B if customer B clearly describes the special circumstances that make the furniture a current year bona fide need.

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